



DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS

ARMY CORPS OF ENGINEERS CENTRE

190 FIFTH STREET EAST

ST. PAUL, MN 55101-1638

REPLY TO
ATTENTION OF

October 23, 2001

Construction-Operations
Regulatory (02-00363-TJF)

Ms. Beth Kunkel
URS
Thresher Square
700 South Third Street
Minneapolis, Minnesota 55415

Dear Ms. Kunkel:

We have reviewed the Environmental Assessment Worksheet (EAW) and Negative Declaration regarding a project of AJE Companies, Inc. to construct the Beaver Lake Townhomes project in Maplewood. The project site is in the NE 1/4 NW 1/4 Sec. 25, T. 29N., R. 25W., Ramsey County, Minnesota.

We have determined that the 2 small wetland basins proposed to be impacted by the development are not "waters of the United States" because they are: (1) not "navigable waters" as defined by Federal law, (2) not interstate waters, (3) not part of a tributary system to (1) or (2), (4) not wetlands adjacent to any of the foregoing, and (5) not impoundments of any of the above. In addition, the interstate commerce nexus to these particular waterbodies is insufficient to establish Clean Water Act jurisdiction. These waterbodies are therefore not subject to regulation by the Corps of Engineers under Section 404 of the Clean Water Act. Please note that a water that is not navigable under Federal law may still be "navigable" as defined by state law (and may therefore be subject to regulation by the state).

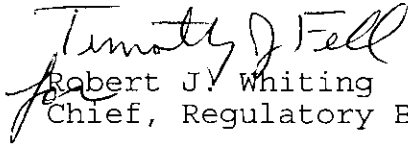
This jurisdictional determination takes into consideration the U.S. Supreme Court's decision in Solid Waste Agency of Northern Cook County v. Corps of Engineers (the SWANCC decision). According to the EAW, these 2 areas are about 0.2 acre in size.

This jurisdictional determination is valid only for the project and waterbodies referenced above. If the project is changed such that discharges of dredged or fill material would occur in the other 3 wetland basins identified on the site, our office should be contacted. Further review would be required to determine if the Corps of Engineers has regulatory jurisdiction in these areas.

PLEASE NOTE THAT THIS LETTER DOES NOT ELIMINATE THE NEED FOR OTHER FEDERAL, STATE, LOCAL, OR OTHER AUTHORIZATIONS (SUCH AS THOSE OF THE DEPARTMENT OF NATURAL RESOURCES OR COUNTY).

If you have any questions, contact Timothy J. Fell in our St. Paul office at (651) 290-5360. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,


Robert J. Whiting
Chief, Regulatory Branch

Copy furnished to: Ramsey County SWCD